

**SAN JUAN COUNTY
HEARING EXAMINER**

FINDINGS, CONCLUSIONS AND DECISION

Applicants: Allen D. Israel and Paul G. Allen
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Agent: Jeff Otis
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File No: HE01-09 (08SJ013)

Request: Shoreline Substantial Development Permit (SSDP)
S.J.C. COMMUNITY

Location: 1469 Sperry Road
Lopez Island
JAN 16 2009

Parcel Nos: 140541002 and 140543001 DEVELOPMENT & PLANNING

Summary of Proposal: The applicants request: (1) removal of an existing footbridge and relocation the path; and (2) construction of an elevated foot bridge across an existing path to access an existing dock.

Shoreline Designation: Rural Farm Forest

Public Hearing: After reviewing the report of the Community Development and Planning Department a public hearing was held on January 7, 2009.

Applicable Policies and Regulations: RCW 90.58 Shoreline Management Act (SMA)
SJCC 18.50 Shoreline Master Program (SMP)

Decision: Approval with conditions.

Findings of Fact

1. The first part of this proposal for an SSDP involves a request to remove a foot bridge and relocate a path currently used for that footbridge. The relocation involves moving approximately 67 feet of the path to the east away from the top of the bank and onto nearby bedrock.
2. A maximum cut of four feet would be made into the rock slope. Approximately 10 cubic yards of rock would be removed.
3. The existing footbridge would be removed upon completion of the project.
4. The parcel associated with the footbridge (Chapel Rock) is 37.86 acres and is categorized as within the open space program except for two acres involved in residential use. There is a single family residence, a bunk house, a lodge and a water system.
5. The second part of the application requests construction of an elevated foot bridge across an existing path which is currently used to access the dock serving the property. The existing path is located approximately +9 feet MLLT across a tombolo connecting the residence with the dock. During high tide storm events the path often floods rendering the dock inaccessible.
6. There are four wetlands delineated along the existing path. Replacing the existing paths with an elevated foot bridge will help restore some of the wetlands' processes.
7. The proposed footbridge will be approximately 160 feet long, 8 feet wide and 2.5 feet above existing grade with a walkway elevation of approximately 11.5 feet MLLT.
8. This part of the project, referred to as the Mud Bay parcel involves 39.08 acres within the open space program except for two acres of residential use. There is a single family residence, several outbuildings and a barn located on this parcel.
9. The surrounding parcels on Sperry Peninsula are under the same ownership and are generally undeveloped forest land.
10. With regard to the Chapel Rock path request, once the path is relocated to the east it will be on solid rock so erosion will not occur. The natural movement of surface water will not be affected.
11. The area is not a public access point, not a public transportation facility and no commercial operations are proposed.

12. With regard to the Mud Bay foot bridge request, the footbridge itself will not create any disturbed soils so it will not cause erosion. The installation of a foot bridge will permit the natural movement of surface water especially during high water events or flood times.
13. There will be no wetlands filled nor will the footbridge be located in any of the existing wetlands.
14. The area is not a public access point, not a public transportation facility and no commercial operations are proposed.
15. A Determination of Non-Significance was issued on November 26, 2008. No comments were received.
16. The notice of hearing was published November 26, 2008. Mailing occurred November 25, 2008 and posting occurred November 24, 2008.
17. The staff report is incorporated herein by reference as though fully set forth. The analysis and factual statements contained in the staff report are adopted as a finding herein.
18. Any conclusion herein which may be deemed a finding is hereby adopted as such.

Conclusions of Law

1. The Hearing Examiner has jurisdiction over the persons and subject matter of this proceeding.
2. Proper notice was given in compliance with local and state requirements.
3. The proposal has complied with the requirements of the State Environmental Policy Act.
4. Properly conditioned the two individual requests comply with the criteria for approval of a SSDP, with the SMA and the policies and regulations of the SMP.
5. Any finding herein which may be deemed a conclusion is hereby adopted as such.

Conditions

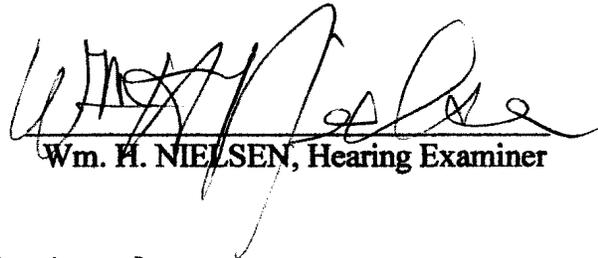
1. Both projects shall be constructed as proposed in the drawings and other materials submitted with the application, except as the same may be modified by these conditions.

2. The applicants shall obtain all other required permits and abide by the conditions thereof.
3. Construction shall not be commenced until all relevant appeal periods have run.
4. Best management practices will be employed at all times during construction to keep debris from falling down the slope onto the tidelands. Any overburden created will be immediately removed from the site and disposed of in an approved location. All materials shall be removed from the shoreline immediately following completion of the project.
5. Development under this permit shall commence within two years of the date of permit approval and shall be substantially complete within five years thereof or the permit shall become null and void.
6. Failure to comply with any terms or conditions of this permit may result in its revocation.

Decision

The shoreline substantial development application is approved subject to the conditions set forth above.

DONE this 16th day of January, 2009.


Wm. H. NIELSEN, Hearing Examiner

Shoreline Appeal

Any appeal of the shoreline substantial development permit shall be made to the Washington State Shoreline Hearings Board pursuant to RCW 90.58.180 and the rules adopted by said hearings board.